

FILED
1

AUG 25 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

PS

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10 Attorneys for Plaintiff,
11 REDWOOD CREDIT UNION

12 **UNITED STATES BANKRUPTCY COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 REDWOOD CREDIT UNION,

15 Plaintiff,

16 v.

17 The Vessel NAUTI 'N NICE, its engines, boilers,
18 tackle, furniture, licenses, masts, bowsprit, boat,
19 anchors, cables, chains, rigging, tackle, apparel,
20 furniture, and all other appurtenances, etc., in rem,
21 and JOSEPH M. PEULEN, an Individual, in
22 personam,

) IN ADMIRALTY

) Case No.: 2008-04059 MEJ

) VERIFIED IN REM COMPLAINT FOR
23 FORECLOSURE OF A FIRST PREFERRED
24 MORTGAGE ON A VESSEL AND IN
25 PERSONAM ON A PROMISSARY NOTE

26 Defendants.

27 Plaintiff Redwood Credit Union alleges:

28 **JURISDICTION AND VENUE**

1. This is an admiralty and maritime claim arising from a promissory note secured by
2 a Preferred Mortgage on Vessel documented through the U.S. Coast Guard.

2. This Honorable Court has jurisdiction pursuant to 28 U.S.C. § 1333 and pursuant
3 to and in accordance with the provisions of 46 U.S.C. § 31325, and within the meaning of Rule 9(h) of the
4 Federal Rules of Civil Procedure and Rule C of the Supplemental Rules for Certain Admiralty and
5 Maritime Claims.

VERIFICATION

I am the Financial Assistance Manager for Plaintiff Redwood Credit Union and make this verification in that capacity. I have read the foregoing VERIFIED IN REM COMPLAINT FOR FORECLOSURE OF A FIRST PREFERRED MORTGAGE ON A VESSEL AND IN PERSONAM ON A PROMISSARY NOTE and know the contents thereof. I am informed and believe that the allegations in that document are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on 8-20-2008, at Santa Rosa, California.


Deb TenHave
Financial Assistance Manager

JUN. 27, 2008 11:07 AM

REDWOOD CR. UN. COLLECTIONS

N/A



CORPORATE OFFICE
1701 Fourth Street
P.O. Box 6104
Santa Rosa, CA 95406-6104
(707) 546-4000 or (800) 475-7928

FUNDS ADVANCE VOUCHER

NAME Joseph M Peulen		MEMBER NUMBER 0000275166		
ADDRESS 125 Eden Roc Dr Sausalito CA 94965		LOAN NUMBER 04		
		DATE 01/08/2004		
SUB-ACCOUNT NUMBER	OLD BALANCE	ADVANCE AMOUNT	NEW BALANCE	
04		\$160,000.00	\$160,000.00	
CREDIT INSURANCE APPLIED FOR		PAYMENT AMOUNT	PAYMENT FREQUENCY	DATE OF FIRST PAYMENT
SINGLE CREDIT LIFE INSURANCE YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>				
JOINT CREDIT LIFE INSURANCE YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>				
CREDIT DISABILITY INSURANCE YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		\$ 1,720.56	Monthly	02/20/2004

SECURITY FOR ACCOUNT

By endorsing check # **4411001403**

I give you a security interest in the property identified on the right, to assure my obligations with regard to the Sub-account noted above in accordance with the minimum payment and security agreement provision of the Disclosure Statement and Agreement. Your rights to this security are governed by that Agreement. This collateral also secures any other debt obligation that subsequently incur with you.

**1984 CANOE COVE 57 VIN #: ZVE57002M84A
DEPOSIT TO SAVINGS
180 MONTHS**

MAXIMUM SHARES PLEDGED

0000275166

ACCOUNT NUMBER

The Annual Percentage Rate (APR) set forth in the Loan Agreement and Security Agreement shall continue to apply to the principal outstanding after breach.

LN 2-013 8/02

Exhibit A

JUN. 27. 2008 11:06AM

REDWOOD CR. UN. COLLECTIONS

NO. 924

P.8

PREFERRED MORTGAGE OF VESSEL

Joseph Peulen (Mortgagor)
 125 Eden Roc Drive
 Sausalito, CA 94965

Redwood Credit Union (Mortgagee)
 1739 - 4th Street
 Santa Rosa, CA 95404

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

Know ye, That Joseph Peulen, 100% Owner (and all heirs, executors, administrators, successors, and assigns) (hereinafter referred to as "Mortgagor"), sole owner of the self-propelled vessel called the NAUTI'N NICE of SAUSALITO CA, Official Number 871702 (hereinafter referred to as "Vessel"), being justly indebted to Redwood Credit Union, 100% Mortgagee (and all heirs, executors, administrators, successors, and assigns) (hereinafter referred to as "Mortgagee") in the sum of One Hundred Sixty Thousand Dollars and No Cents (\$160,000.00) upon the terms of a certain promissory note, a copy of which is attached to this document, together with any and all extensions and renewals, has for the purpose of securing the payment of the said debt, and the interest thereon, granted, bargained, sold, and mortgaged and by these presents does grant, bargain, sell, and mortgage unto Mortgagee, the whole of said Vessel, together with all of the mast, bowsprit, boat, anchors, cables, chains, rigging, tackle, apparel, furniture, and all other necessaries thereunto appertaining and belonging.

To have and to hold the Vessel and all the other before mentioned appurtenances unto Mortgagee, to the sole and only proper use, benefit, and behoof of Mortgagee, forever:

Provided always, and the condition of these presents is such, that if Mortgagor, shall pay or cause to be paid, to Mortgagee, the debt aforesaid, with the interest thereon, at the time or times and in the manner in accordance with the terms of a certain promissory note, a copy of which is attached to this document, together with any and all renewals or extensions, then these presents shall be void and of no effect, subject, however, to the provisions hereinafter contained; and Mortgagor hereby agrees to pay the debt aforesaid, and interest thereon, and to fulfill and perform each and every one of the covenants and conditions herein contained.

But if default be made in such payments, or in any one of such payments, or if default be made in the prompt and faithful performance of any of the covenants herein contained, or if Mortgagee shall at any time deem itself in danger of losing said debt, or any part thereof, by delaying the collection thereof until the expiration of the time limited for the payment thereof, or if Mortgagor shall sell or attempt to sell said property, or any part thereof, or if the same shall be levied upon or taken by virtue of any attachment or execution against Mortgagor, or if Mortgagor shall remove, or attempt to remove, the Vessel beyond the limits of the United States, or if Mortgagor shall suffer and permit the Vessel to be run in debt or if Mortgagor shall negligently or willfully permit said property to waste, or be damaged or destroyed, Mortgagee is hereby authorized to take possession of said goods, chattels, and personal property at any time, wherever found, either before or after the expiration of the time aforesaid, and to sell and convey the same, or so much thereof as may be necessary to satisfy the said debt, interest, and reasonable expenses, after first giving a proper notice of a legal number of days, as may be required by applicable statutes or ordered by a court of proper jurisdiction, and to retain the same out of the proceeds of such sale; the surplus (if any) to belong and to be returned to Mortgagor.

And it is agreed that on such sale Mortgagee may become the purchaser.

And Mortgagor does further covenant and agree, to and with Mortgagee, that it will immediately procure the Vessel to be insured against loss or damage by fire, and against all marine risks and disasters, in some good and responsible insurance company or companies, to be selected and approved by Mortgagee, for an amount at least equal to the amount which shall from time to time remain unpaid upon the said indebtedness and interest thereon, and that it will keep such policy or policies renewed from time to time, and keep the same valid at all times for the amount aforesaid; that it will do, suffer, or permit to be done, no act whereby said insurance would be liable to be vitiated or forfeited, and that it will immediately assign and deliver to Mortgagee said policy or policies of insurance, having first duly obtained the proper consent of the insurance company or companies to such assignment, and that it will also promptly deliver to Mortgagee the renewal certificates of said policies as a collateral security for the payment of said indebtedness. And if Mortgagor shall fail to immediately procure, assign, and deliver such policy or policies as aforesaid, or shall at any time fail to immediately renew the same, and deliver the renewal certificates as aforesaid, Mortgagee is hereby authorized to procure said vessel to be insured as aforesaid, and to keep the policy or policies renewed; and the amount which it has to pay therefore shall be considered, and is hereby declared to be, an additional indebtedness hereby intended to be secured, and shall be repaid to Mortgagee on demand, and

shall bear interest at the rate so stated in the terms of a certain promissory note, a copy of which is attached to this document, together with any and all renewals or extensions, from the time of such payment until repaid.

And it is hereby provided, that it shall be lawful for Mortgagor, to retain possession of the property hereby mortgaged, and at its own expense to use and enjoy the same until said indebtedness shall become due, unless Mortgagee should at any earlier date declare this mortgage forfeited for nonperformance of any of the covenants herein contained, or by virtue of any authority hereby conferred on Mortgagee.

Mortgagor shall, pursuant United States Code Title 46 Chapter 313 Section 31324, use diligence in keeping a certified copy of this mortgage on the Vessel at all times. On request, the Mortgagor, master, or individual in charge of the Vessel shall permit a person to examine the mortgage if the person has business with the Vessel that may give rise to a maritime lien or the sale, conveyance, mortgage, or assignment of a mortgage of the Vessel.

In witness whereof, Mortgagor has executed this instrument on this 8th day of JANUARY, 2004.

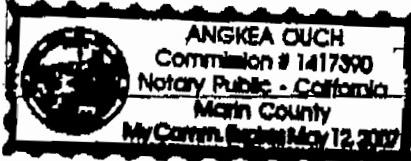
X
Joseph Peulen

ACKNOWLEDGEMENT

State of California
County of Marin

I certify that I know or have satisfactory evidence that Joseph Peulen is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

In witness thereof, I have hereunto set my hand this 8th day of January, 2004.



NOTARY PUBLIC and for the State of California
residing at Sausalito My commission expires May 12, 2007

GOOD FAITH / PRIOR AND SUBSEQUENT LIENS AFFIDAVIT

State of California
County of Marin

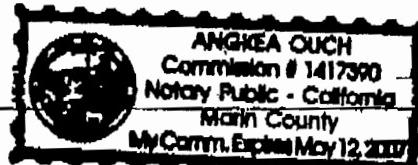
I, Joseph Peulen, being first duly sworn, on oath deposes and say: That the within preferred mortgage is made in good faith and without any design to hinder, delay, or defraud any existing or future creditor of the mortgage or any lien or of the mortgaged vessel.

In pursuance of the provisions of the Ship Mortgage Act, 1920, I do hereby certify that at the time of executing the within preferred mortgage on the NAUTI N NICE, Official Number 671702 of SAUSALITO CA, in favor of Redwood Credit Union, that there is no maritime lien, prior mortgage or other obligation of liability upon said vessel known to the undersigned mortgagor except None.

It is further certified that without the consent of the mortgagee under the above-mentioned preferred mortgage, there will not be incurred after the execution of that mortgage, and before the mortgagee has had a reasonable time in which to record same and have the endorsement in respect thereto made upon the document of the said vessel, any contractual obligation creating a lien upon the vessel other than lien for wages for stevedores employed directly by the owner-master, or agent of the vessel, wages of the crew of the vessel, general average salvage, including contract salvage, in respect to said vessel.

X Joseph Peulen
Joseph Peulen

Subscribed and sworn to before me this 3 day of July 2009.



NOTARY PUBLIC in and for the State of California,
residing at 52 Park. My commission expires May 12, 2009.

REDWOOD CR. UN. COLLECTIONS

NO. 924

P.3

2-168-04

MARINE TITLE COMPANY

A Division of American Maritime, Inc.

1200 Westlake Ave. N., Suite 603 Seattle, WA 98109

RECORDING CONFIRMATION

Phone (206) 286-8994

Fax (206) 286-2055

Written By:	Tanya Lage	File Number:	PBU-26319-TL	Date:
Vessel:	O/N: 671702 NAUTI 'N NICE	Reg. No.: WN-7877-RB	Hull No.: ZVE57002M84A	

Prepared For

Redwood Credit Union
1739 - 4th Street
Santa Rosa, CA 95404

Grantee

Redwood Credit Union
1739 - 4th Street
Santa Rosa, CA 95404

Grantor

Joseph Paulen
125 Eden Roc Drive
Sausalito, CA 94965

Date Confirmed Type of Recording Date of Instrument Amount Port of Record Date Recorded Time Recorded Batch Doc ID

The above referenced Preferred Mortgage has acquired first preferred status according to the vessel's abstract of title on file at the National Vessel Documentation Center. The original recorded mortgage is included with this confirmation.

RECONVEYANCE REQUEST

Marine Title Company:

Please prepare and forward a Satisfaction of Mortgage for my signature based on this recording.

Exhibit C

UN. 27. 2008 11:06AM

REDWOOD CR. UN. COLLECTIONS

NO. 924

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DEPARTMENT OF TRANSPORTATION U.S. COAST GUARD CG-1332A (Rev. 8-93)	GENERAL INDEX OR ABSTRACT OF TITLE CONTINUATION SHEET NO. 1				OFFICIAL NO.
					671702

INSTRUMENT	% CONVEYED	DATE	AMOUNT	BOOK	PAGE
BS	100	02 07 96	\$1.00	96-37	219

FILED PORT	DATE	TIME	DATE TERMINATED
NVDC	03 25 96	10 30 AM	

GRANTOR

DR TULIO CELANO AND MARILYN CELANO, JTRS

GRANTEE

HUMPHREY CONSTRUCTION, INC.

*****VESSEL NAME CHANGED TO: NAUTI-N-NICE (06/08/96)*****

INSTRUMENT	% CONVEYED	DATE	AMOUNT	BOOK	PAGE
BS	100	7-27-01	\$1.00	01-69	90

FILED PORT	DATE	TIME	DATE TERMINATED
NVDC	6-25-01	11:40 AM	

GRANTOR

HUMPHREY CONSTRUCTION INC

GRANTEE

A BERNARD CONLEY LLC

HIN ASSOCIATED WITH THIS VESSEL 2VE57002M84A ENTERED 8-16-01

INSTRUMENT	% CONVEYED	DATE	AMOUNT	BOOK	PAGE
FILED PORT		DATE		TIME	DATE TERMINATED

GRANTOR

GRANTEE

INSTRUMENT	% CONVEYED	DATE	AMOUNT	BOOK	PAGE
FILED PORT		DATE		TIME	DATE TERMINATED

GRANTOR

GRANTEE

 ISSUED AS AN ABSTRACT OF TITLE ISSUED FOR CHANGE OF PORT OF RECORD

DATE:

TIME:

PAGE:

OF

PORT:

MAY BE USED

DEPARTMENT OF HOMELAND SECURITY U.S. COAST GUARD CG - 1332	GENERAL INDEX OR ABSTRACT OF TITLE Continuation Sheet No. 2			Official No. 671702
BILL OF SALE				
% CONVEYED 100	DATE September 02, 2003	AMOUNT \$10.00	BATCH BK 04-34	DOC ID 187
DATE FILED January 12, 2004	TIME FILED 09:53 AM	STATUS RECORDED		
SELLER: A BERNARD CONLEY, LLC				
BUYER: NORMAN G HAYDEN				
BILL OF SALE				
% CONVEYED 100	DATE January 07, 2004	AMOUNT \$10.00	BATCH BK 04-34	DOC ID 188
DATE FILED January 12, 2004	TIME FILED 09:53 AM	STATUS RECORDED		
SELLER: NORMAN G HAYDEN				
BUYER: JOSEPH PEULEN				
PREFERRED MORTGAGE				
% CONVEYED 100	DATE January 08, 2004	AMOUNT \$160,000.00	BATCH BK 04-34	DOC ID 189
DATE FILED January 12, 2004	TIME FILED 09:53 AM	STATUS RECORDED		
MORTGAGOR: JOSEPH PEULEN				
MORTGAGEE: REDWOOD CREDIT UNION 1739 - 4TH STREET SANTA ROSA CA 95404				
This space intentionally left blank				

DEPARTMENT OF HOMELAND SECURITY U.S. COAST GUARD CG - 1332	GENERAL INDEX OR ABSTRACT OF TITLE Continuation Sheet No. 3	Official No. 671702
STATUS: ON RECORD Vessel Name Change to NAUTI 'N NICE (4 01 04)		
ISSUED AS AN ABSTRACT OF TITLE AS OF		 _____ DEBRA STANFIELD
DATE: April 07, 2004	TIME: 08:00 AM	NATIONAL VESSEL DOCUMENTATION CENTER

Exhibit C

REDWOOD CR. UN. COLLECTIONS

NO. 924

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DEPARTMENT OF
TRANSPORTATION
U.S. COAST GUARD

GENERAL INDEX OR ABSTRACT OF THE

14. _____
531-1982
FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
100
HOBART C.
11 SEASIDE AVENUE
NEW YORK, NEW YORK 100-11

This vessel was built at Sidney, B.C. Canada in 1924 of F.R.P.
by Cambie Coast Manufacturing Ltd. for D.M. Stone Trustee D.M.S. Trust
as appears by Certificate of Design E. BOONE, Master Carpenter